

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

BRIAN PAUL HYDE,

Plaintiff,

Case No. 19-cv-13403

Hon. Matthew F. Leitman

v.

JASON KASS, *et al.*,

Defendants.

ORDER ON MOTION FOR RECONSIDERATION (ECF No. 34)
CLARIFYING SCOPE OF PRIOR ORDER

This action arises out of Plaintiff Brian Paul Hyde’s detention at Macomb County Jail in 2018. Hyde claims that Defendants Jason Kass, Bartosz Nowak, Jonathan Dominka, Matthew Luckino, and Nikita Petrovskiy, all of whom are Macomb County Corrections Officers (collectively, the “Individual Defendants”), used excessive force on him during an incident at the Jail in July 2018. Hyde brings claims against the Individual Defendants under 42 U.S.C. §1983 and under Michigan law.

On June 22, 2022, this Court issued an order denying the Individual Defendants’ motion for summary judgment on Hyde’s claims against them (the “Summary Judgment Denial Order”). (*See* Order, ECF No. 32.) The Court noted in that Order that there was authority suggesting that Hyde’s previous plea of *nolo contendere* to charges in a related state court prosecution did not constitute an

admission of facts that could be used against Hyde in this action. (*See id.*, PageID.1234–1235, n.1.) The Court further noted that the Individual Defendants had not identified contrary authority. (*See id.*) Accordingly, for purposes of denying the Individual Defendants’ motion, the Court did not treat Hyde’s *nolo contendere* plea as an admission of any facts.

The Individual Defendants have now filed the present motion for reconsideration. (*See* Mot., ECF No. 34.) In their motion, the Individual Defendants do not ask the Court to revisit its decision to deny their motion for summary judgment. Instead, they ask – out of an abundance of caution – that the Court clarify that the Summary Judgment Denial Order does not prevent them from re-raising the issue of the admissibility and/or effect of Hyde’s *nolo contendere* plea at trial in the context of a motion *in limine*. (*See id.*)

The Court concludes that the Individual Defendants raise a reasonable concern regarding the scope and effect of the Summary Judgment Denial Order. Accordingly, the Court **CLARIFIES** that (1) the Individual Defendants are permitted to re-raise the issue of the admissibility and/or effect of Hyde’s *nolo contendere* plea in a motion *in limine*; and (2) that the Summary Judgment Denial Order did not conclusively rule on that issue for any purpose other than resolving the then-pending summary judgment motion. However, the Court **FURTHER**

CLARIFIES that this order does not constitute a reconsideration of the Court's Summary Judgment Denial Order.

IT IS SO ORDERED.

Dated: July 7, 2022

s/Matthew F. Leitman

MATTHEW F. LEITMAN

UNITED STATES DISTRICT JUDGE

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on July 7, 2022, by electronic means and/or ordinary mail.

s/Holly A. Ryan

Case Manager

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